



**San Bernardino County  
Flood Control District**

**F A S**

**STANDARD CONTRACT**

**FOR COUNTY USE ONLY**

<input checked="" type="checkbox"/> New <input type="checkbox"/> Change <input type="checkbox"/> Cancel	Vendor Code		<b>SC</b>		Dept. 097	<b>A</b>	Contract Number	
County Department Flood Control District					Dept. 097	Orgn. 097	Contractor's License No.	
County Department Contract Representative Jim Borcuk, P.E., Chief					Telephone 387-7962		Total Contract Amount Not to Exceed \$67,880	
Contract Type <input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:								
If not encumbered or revenue contract type, provide reason:								
Commodity Code			Contract Start Date		Contract End Date		Original Amount	
							Amendment Amount	
Fund RFA	Dept. 091	Organization 091	Appr. 200	Obj/Rev Source 2445	GRC/PROJ/JOB No. 78F01958		Amount \$67,880	
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.		Amount	
Project Name Grove Basin Emergency Remediation Project				Estimated Payment Total by Fiscal Year				
				FY	Amount	I/D	FY	Amount

THIS CONTRACT is entered into in the State of California by and between the San Bernardino County Flood Control District, hereinafter called the District, and

Name  
Tettermer & Associates  
Address  
19 Technology Drive  
Irvine, CA 92618  
Telephone  
(949) 923-6277

hereinafter called CONSULTANT

Federal ID No. or Social Security No.  
33-0203193

**IT IS HEREBY AGREED AS FOLLOWS:**

(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)

**WITNESSETH**

WHEREAS, Grove Basin construction was completed in February, 2000 for the purpose of providing flood protection to downstream properties, including residential, dairy, and agriculture land uses; and

WHEREAS, Grove Basin construction was partially funded by the Chino Basin Water Conservation District and retrofitted for the purpose of maximizing water conservation benefits; and

WHEREAS, during the October, 2004 rainstorms, the water level at Grove Basin rose to within 2 feet of spillway crest, causing apparent infiltration through the basin; and

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WHEREAS, during the October, 2004 rainstorms, sink holes were observed along Grove Avenue and above both the northeast and northwest basin inlets; and

WHEREAS, unless the seepage problem is identified and corrected, it is likely that further damage will occur to Grove Basin and Grove Avenue during future rainstorms; and

WHEREAS, the CONSULTANT has been selected through a formal RFP process to prepare construction plans, specifications and cost estimates for emergency protective measures; and

WHEREAS, the CONSULTANT has the necessary skills, qualifications and licenses required by law to perform any services required under this Contract in connection with said PROJECT; and

NOW, THEREFORE, in consideration of the premises and mutual benefits, which shall accrue to the parties hereto in carrying out the terms of this Contract. It is mutually understood and agreed as follows:

### **SCOPE OF SERVICES**

Each and every phase of the services provided for in this contract shall be completed in conformance with standard engineering practices for similar type projects. It is the intention of the parties that when completed, the final PROJECT contract documents, to be prepared by the CONSULTANT under this Contract, which requires the approval of the DISTRICT, and the services hereunder in connection with such document, shall not be deemed complete until the approval is received. All tasks and subtasks shall be performed by CONSULTANT as specified in Exhibit "A", attached and incorporated herein, and with current applicable DISTRICT statutes, regulations, ordinances and written guidelines, within the applicable professional standard of care.

The Scope of Services shall consist of, but not be limited to, the following general tasks:

1. Prepare engineering design plans in accordance with County Standards
2. Prepare Special Provisions Sections related to construction details, in accordance with CalTrans specifications, dated 2002. CONSULTANT shall stamp the signature sheet.
3. Prepare Engineers Estimate and bid sheets in Microsoft Excel.
4. Conduct exploratory trenching of the basin to determine the cause of the seepage problem.
5. Provide on-call services during bidding and construction for design clarifications .
6. Provide as-built record drawings after completion of construction.

The CONSULTANT shall not deviate from the approved scope of work unless a request for variance is submitted in writing and approved by the Federal Projects/Flood Control Engineering Division Chief.

For the provided services the DISTRICT shall pay the CONSULTANT an amount based on the "Schedule of Hourly Rates" set forth in Exhibit "B", plus direct project costs and the costs of sub-consultants. Total compensation shall not exceed \$67,880, and no additional compensation will be allowed therefore.

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Reimbursables – Direct project costs such as, but not limited to toll telephones calls, reproductions, plots, vehicle mileage, couriers and certified mail will be added to invoices, as submitted. The price paid for these items shall be based on the actual labor and material costs expended per their current standard rates set forth in Exhibit “B”. An accounting of all labor, equipment and material charges shall be submitted with invoices.

Construction Support – CONSULTANT shall provide design services to support the DISTRICT’s construction of the proposed improvements according to approved final plans and specifications. Completion of this section of services is attained with the written approval of the DISTRICT. The price for completion of this section of services shall be based on actual labor and material costs expended per the established fee schedule (Exhibit “B”). An accounting of all labor, equipment and material charges shall be submitted with invoices.

Deliverables – CONSULTANT shall supply the “Deliverables”, including all supplemental technical documents, as described in Exhibits “A” and “B” to the DISTRICT. Additionally, correspondence files, maps and other information associated with the rights-of-way, surveys and utility issues will be supplied to the DISTRICT. CONSULTANT shall not be responsible for delays not within its reasonable control.

CONSULTANT further agrees:

### 1. CONFLICT OF INTEREST

CONSULTANT shall make all reasonable efforts to ensure that no County or DISTRICT officer or employee, whose position in the County enables him/her to influence any award of this contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of this contract or shall have any relationship to the CONSULTANT or officer or employee of the CONSULTANT.

### 2. FORMER COUNTY OFFICIALS

CONSULTANT must provide information on former DISTRICT and County of San Bernardino Administrative officials (as defined below) who are employed by or represent your business. The information provided must include a list of former County Administrative Officials who terminated County employment within the last five years and who are now officers, principals, partners, associates, or members of the business.

This information should also include the employment and/or representative capacity and the dates these individuals began employment with or representation of your business. For purposes of this section, “County Administrative Official” defined as a member of the Board of Supervisors or such officer’s staff, group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

### 3. EQUAL EMPLOYMENT OPPORTUNITY

CONSULTANT shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment

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Act, County Policy and other applicable federal, state and county laws, regulations and policies relating to equal employment contracting opportunities, including laws and regulations hereafter enacted.

DISTRICT agrees:

1. To provide CONSULTANT with topographic mapping and conceptual design data on electronic files, if available.
2. To obtain all permits and to obtain access and make provisions for CONSULTANT to enter upon public and private lands as required in the performance of the CONSULTANT's services under this Contract.
3. To attend all meetings with environmental agencies, Federal and State agencies and other agencies as necessary.
4. To review all studies, reports, sketches, estimates, specifications, drawings, proposals and other submittals presented by the CONSULTANT and render necessary decisions pertaining thereto within a reasonable time so as to not delay the services of the CONSULTANT.
5. To furnish to CONSULTANT by placing at his disposal all available information pertinent to the PROJECT including previous reports and any other data relative to design or construction of the PROJECT.
6. To furnish sample DISTRICT-approved plans and signature blocks, and furnish all required copies of the plans and specifications for the project bid documents.
7. To provide all necessary environmental documentation and processing the required environmental clearances and permits from the Federal and State Agencies, with CONSULTANT providing support and necessary exhibits for processing
8. To provide CONSULTANT with all available right-of-way maps and secure all right-of-way and temporary easements, if needed.
9. To provide the CONSULTANT with boiler plate Special Provisions sections and bid sheets and merge the CONSULTANT's sections to form a complete special provision package for bidding.

It is mutually agreed:

1. That CONSULTANT shall submit invoices for partial payment at monthly intervals. The invoices must contain (or have attached thereto) sufficient cost accounting documentation to support labor, equipment and material charges as well as direct project costs. The form and content of such invoices shall be as approved by the DISTRICT. The 10% retention and a running total of payments for each task shall be shown on the invoices.

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2. Upon approval by the DISTRICT, progress payments shall be made in proportion to services performed within 20 working days of receipt of invoice.
3. The DISTRICT shall retain 10% of the value of each progress payment. The DISTRICT shall hold the retention for items of the Scope of Services for 30 days following the date of final approval of all tasks in the Scope of Services.
4. The CONSULTANT shall complete all of the tasks set forth in the Scope of Services, within 8 weeks from the date of Notice to Proceed. Liquidated damages at the rate of one hundred dollars (\$100) per day shall be assessed after 8 weeks until the services are completed. Time extensions can be granted at the discretion of the DISTRICT's Flood Control Engineering Division Chief. PROJECT delays as a result of DISTRICT or other government agency actions shall be cause for extension of the Contract completion period. DISTRICT shall provide CONSULTANT with written notification of extensions upon verbal or written request of CONSULTANT.
5. The CONSULTANT agrees to indemnify, defend and hold harmless the DISTRICT and County of San Bernardino and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising from CONSULTANT's negligent or intentional acts, errors or omissions and for any costs or expenses incurred by the County of San Bernardino on account of any claim therefore, except where such indemnification is prohibited by law.

Insurance – Without in anyway affecting the indemnity herein provided and in addition thereto, the CONSULTANT shall secure and maintain throughout the Contract the following types of insurance with limits as shown:

Workers' Compensation – A program of Workers' Compensation insurance or a State-approved Self-Insurance Program in an amount or form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with two hundred fifty thousand dollars (\$250,000) limits, covering all persons providing services on behalf of the CONSULTANT and all risks to such persons under this Contract.

Comprehensive General and Automobile Liability Insurance – This coverage to include contractual coverage and automobile liability coverage for owned, hired, and non-owned vehicles. The policy shall have combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000).

Errors and Omission Liability Insurance – Combined single limits of one million dollars (\$1,000,000) for bodily injury and property damage and three million dollars (\$3,000,000) in the aggregate or

Professional Liability – Professional liability insurance with limits of at least one million dollars (\$1,000,000) per claim or occurrence.

Additional Named Insured – All policies, except for Workers' Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming

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the DISTRICT and its officer, employees, agents and volunteers as additional named insureds with respect to liabilities arising out of the performance of services hereunder.

Waiver of Subrogation Rights – Except for the Errors and Omissions Liability and Professional Liability, CONSULTANT shall require the carriers of the above required coverages to waive all rights of subrogation against the DISTRICT, its officers, employees, agents, volunteers, contractors and subcontractors.

Policies Primary and Non-Contributory – All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the DISTRICT.

Proof of Coverage - The CONSULTANT shall immediately furnish certificates of insurance to the DISTRICT evidencing the insurance coverage, including endorsements, above required prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire except without thirty (30) days written notice to the DISTRICT, and CONSULTANT shall maintain such insurance from the time CONSULTANT commences performance of services hereunder until the completion of such services. Within sixty (60) days of the commencement of this Contract, the CONSULTANT shall furnish certified copies of the policies and all endorsements.

Insurance Review – The above insurance requirements are subject to periodic review by the DISTRICT. The DISTRICT's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of the DISTRICT. In addition, if the Risk Manager determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the DISTRICT, inflation, or any other item reasonably related to the DISTRICT's risk.

Any such reduction or waiver for the entire term of the Contract and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Contract. CONSULTANT agrees to execute any such amendment within thirty (30) days of receipt.

6. Termination – The obligation to provide further services under this Contract may be terminated by either party upon thirty (30) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In such event, the DISTRICT shall be given all original drawings, specifications and reports developed for that portion of the services completed and/or being terminated or abandoned. Any use of the aforesaid completed documents without specific written verification by CONSULTANT will be at the DISTRICT's sole risk and without liability or legal exposure to CONSULTANT.

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7. The DISTRICT shall pay CONSULTANT for services for any portion of the services being terminated, which were acceptably rendered prior to termination. If said termination occurs prior to completion of any task of the PROJECT for which payment has not been received, the fee for services performed during such task shall be based on the amount mutually agreed to by the DISTRICT and the CONSULTANT of the portion of such task completed but not paid prior to said termination.
8. Ownership and Reuse of Documents – That all original drawings, specifications and reports developed for the PROJECT shall, upon payment for the services or tasks described in this Contract, be furnished to and become the property of the DISTRICT, except as otherwise provided herein. Any reuse without written verification or adaptation by CONSULTANT for the specific purpose intended will be at DISTRICT sole risk and without liability or legal exposure including attorney's fees arising out of or resulting there from. Any such verification or adaptation will entitle CONSULTANT to further compensation at rates to be agreed upon by DISTRICT and CONSULTANT.
9. This Contract, together with the provisions hereof and the exhibits hereto, represent the entire Contract between the DISTRICT and the CONSULTANT and may only be altered, amended, or canceled by a written instrument executed by both parties.
10. DISTRICT and the CONSULTANT each binds itself and its successors and assigns to the other party of this Contract and to the successors and assigns of such other party in respect to all covenants of the Contract. Neither DISTRICT nor the CONSULTANT shall assign, sublet, or transfer any interest in this Contract without the written consent of the other party. Nothing herein shall be construed as creating a personal liability on the part of the officer or agency of any public body, which may be a party hereto.
11. DISTRICT shall have the right to approve in advance any CONSULTANT or subcontractors engaged by the CONSULTANT to perform any services under this Contract.
12. If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorney's fees. This paragraph shall not apply to those costs and attorney's fees directly arising from any third party legal action against a party hereto and payable under the indemnification provisions of this Contract.
13. CONSULTANT and DISTRICT hereby waive their respective right to trial by jury and agree to accept trial by judge alone of any cause of action, claim, counterclaim, or cross-complaint in any action, proceeding and/or hearing brought by either CONSULTANT against DISTRICT or DISTRICT against CONSULTANT on any matter whatsoever arising out of, or in any way connected with this Contract, the relationship of CONSULTANT and DISTRICT, or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect, regardless of whether such action or proceeding concerns any contract or tort or other claim.
14. The parties acknowledge and agree that this Contract was entered into and intended to be performed in whole or substantial part in San Bernardino County, California. Therefore, the internal law of the State of California, without regard to any conflicts of law provisions, shall govern any action or claim arising out of this Contract. The parties agree that the venue for

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any action or claim brought by any party to this Contract will be the Central District of San Bernardino County. Each party hereby waives any law or rule of court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party, the parties hereto agree to use their best efforts to obtain a change of venue to the Central District of San Bernardino County.

IN WITNESS WHEREOF, the DISTRICT has by order of their Board of Supervisors, caused these presents to be subscribed and by the Chairman of said Board and their respective seal to be affixed, attested by the Clerk thereof, and the CONSULTANT's have hereunto subscribed their names, day, month, and year herein first above written.

\* \* \* \* \*

SAN BERNARD COUNTY FLOOD CONTROL DISTRICT

► \_\_\_\_\_  
Dennis Hansberger, Chairman, Board of Supervisors

Dated: \_\_\_\_\_

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD  
Clerk of the Board of Supervisors of the County of San Bernardino.

By \_\_\_\_\_  
Deputy

Tettemer & Associates \_\_\_\_\_  
(Print or type name of corporation, company, contractor, etc.)

By ► \_\_\_\_\_  
(Authorized signature - sign in blue ink)

Name \_\_\_\_\_  
(Print or type name of person signing contract)

Title \_\_\_\_\_  
(Print or Type)

Dated: \_\_\_\_\_

Address 19 Technology Drive \_\_\_\_\_  
Irvine, CA 92618 \_\_\_\_\_

Approved as to Legal Form  
► \_\_\_\_\_  
County Counsel  
Date \_\_\_\_\_

Reviewed by Contract Compliance  
► \_\_\_\_\_  
Date \_\_\_\_\_

Presented to BOS for Signature  
► \_\_\_\_\_  
Department Head  
Date \_\_\_\_\_

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